

UDOT DESIGN-BUILD PROGRAM

Alternative Technical Concepts

White Paper

April 4, 2011



Alternative Technical Concepts (ATCs) have successfully been used on Design-Build projects to generate innovative ideas and cost savings.

DISCUSSION

The Instructions to Proposers (ITP) included in the advertising of the Request for Proposals (RFP) will outline the process for submitting and evaluating ATCs prior to the proposal due date based on the recommendations below. No changes to the Contract requirements will be permitted in the Proposal except through the ATC process.

DEFINITION

Alternative Technical Concept (ATC) – A deviation from the requirements of the as-issued Contract Documents (i.e. RFP, including work and performance requirements, 30% concept drawings, etc.) which promotes innovation and is equal or better in performance, quality or effect of the end product absent the deviation, as determined by the Department in its sole discretion, and which has successfully been used elsewhere under comparable circumstances.

RECOMMENDATIONS

- 1) A concept is not eligible for consideration as an ATC if, in the Department's sole judgment, it is premised upon or would require:
 - a. A reduction in Project scope, quantities, performance, reliability, or seeks a relaxation of the Contract requirements.
 - b. The addition of a separate Department project to the Contract (such as expansion of the scope of the Project to include additional roadways).
 - c. An increase in the amount of time required for Substantial Completion.
- 2) The process is intended to:
 - a. Allow Proposers to incorporate innovation and creativity into the Proposals.
 - b. Allow the Department to consider Proposer ATCs in making the selection decision.
 - c. Avoid delays and potential conflicts in the design associated with the deferring of reviews of ATCs to the post-award period.
 - d. Obtain the best-value for the public.
- 3) Any ATC, if implemented, will require further evaluation of all Project impacts, including but not limited to; Right-of-Way, geotechnical, utilities, and Maintenance of Traffic. The Proposer will bear the schedule and cost risk associated with all ATC impacts. If the Proposer is not able to obtain the approvals necessary to implement the ATC, the Proposer will be obligated to develop the Project in accordance with existing approvals and without additional cost or extension of time.
- 4) If a Proposer is unsure whether a concept is consistent with the requirements of the RFP or if that concept would be considered an ATC by the Department, the Department recommends that Proposer submit such a concept for review as an ATC.

- 5) If implementation of an ATC will require approval by a third party, Proposer shall take full responsibility for, and bear the full risk of, obtaining any such approvals after award of the Contract and submission of data; provided, however, that the Department shall retain its role as liaison with any governmental authorities, as more particularly described in the Contract Documents and as may be applicable. If any third party approval is not subsequently granted the Proposer must comply with the requirement of the original RFP, Proposer will not be entitled to a Change Order for additional compensation or time under the Contract, as applicable.
- 6) If the Department determines, based on a proposed ATC or otherwise, that the RFP contains an error, ambiguity, or mistake, the Department reserves the right to modify the RFP to correct the error, ambiguity, or mistake, regardless of any impact on a proposed ATC.
- 7) The proposer may submit ATCs to UDOT prior to the proposal due date (or as outlined in the project's procurement schedule, typically ITP Table 2) for UDOT's comments. UDOT's comments will be limited to one of the following:
 - The ATC is acceptable.
 - The ATC is unacceptable.
 - The ATC is unacceptable in its present form, but may be acceptable upon the satisfaction, in UDOT's sole discretion, of certain identified conditions that must be met, or clarifications, or modifications that must be made. (The Department may request additional information regarding a proposed ATC at any time.)
 - The submittal does not qualify as an ATC and may be included in the proposal (that is, the concept complies with the baseline RFP requirements).
 - The submittal does not qualify as an ATC and may not be included in the proposal.
- 8) The Department will make a preliminary determination on whether to accept and approve an ATC for submission. However, Proposer will be responsible for ensuring that the Proposal submittal complies with the requirements of the RFP.
- 9) UDOT may conduct one-on-one meetings with proposers to discuss ATCs.
- 10) The proposer may incorporate one or more acceptable ATCs in its proposal.
- 11) The proposal price will reflect any incorporated ATCs.

- 12) Following Award of the Contract, any ATC that was pre-approved by the Department and incorporated in the Proposal by the successful Proposer shall be included in the Contract Documents, as applicable. If the Department responds to any ATC by stating that it would be acceptable if certain conditions were met, those conditions will become part of the Contract Documents, as applicable. The Contract Documents will be conformed after award, but prior to execution of the Contract, to reflect the ATC, including any Department conditions thereto. Notwithstanding anything to the contrary herein, if Proposer does not comply with one or more Department conditions of pre-approval of an ATC or Proposer fails to obtain a required third-party approval of an ATC, the Proposer shall comply with the original requirements of the RFP without additional cost or extension of time as set forth in the Contract, as applicable.
- 13) During negotiation of the final terms of the Contract (prior to execution of the Contract), any ATC from unsuccessful Proposers may, in the Department's sole discretion, be presented to the selected Proposer for possible incorporation in the Contract Documents, as applicable. In addition, following execution of the Contract, any ATC from unsuccessful Proposers may, in the Department's sole discretion, be presented to the selected Proposer as a Change Order in accordance with the Contract, as applicable.
- 14) Whether and when additional Right-of-Way (ROW) would be required to implement a Proposer's ATC, Proposers are advised that they shall:
- A. Be solely responsible for all costs associated with the acquisition of any such ROW, including the cost thereof and obtaining any necessary environmental approvals;
 - B. Any additional ROW shall be purchased by the Proposer for the Project, with final title reflecting the State of Utah as owner;
 - C. Not be entitled to any Change Order for time or money as a result of site condition (e.g., hazardous materials, differing Site conditions, geotechnical issues, Utilities) on such additional ROW; and
 - D. Not be entitled to any Change Order for time or money as a result of any delay, inability, or cost associated with the acquisition of such ROW.
- 15) Subject to provisions of GRAMA, ATCs and all communications regarding ATCs will remain confidential until a decision is made to select a Proposer or cancel the procurement, at which time all confidentiality rights, if any, shall be of no further force and effect except as otherwise allowed under GRAMA and applicable law.

Alternative Technical Concept Submittal Form

Design-Build Project

Proposer

ATC No.

Description - Attach conceptual drawings, including a traffic operation analysis as appropriate

Location - The locations where, and an explanation of how, the ATC will be used on the Project.

Maintenance - Any change in routine maintenance requirements associated with the ATC, including ease of maintenance.

Design Life - Any change in the anticipated design life of the item(s) comprising the ATC.

Time Savings – Any reduction in the time period necessary to design and construct the Project resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

RFP References – References to requirements of the RFP that are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.

Analysis – The analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed.

Potential Impacts – A preliminary analysis of potential impacts (both during and after construction) including but not limited to user impacts, Right-of-Way, geotechnical, utilities, environmental permitting, local community, safety, and life-cycle Project and infrastructure costs, including impacts on the cost of repair, maintenance, and operation.

Other Projects – A description of other projects on which the ATC has been used, the degree of success or failure of such usage, and the names and contact information (including telephone numbers and e-mail addresses) of project owner representatives who can confirm such statements.

Added Risk – A description of added risk to the Department or third parties associated with implementing the ATC.

Additional Cost(s) – An estimate of any additional Department, Proposer, or third-party cost associated with implementation of the ATC.

Proposal Price Adjustment – An estimate of the Proposal Price adjustment should the ATC be approved and implemented.

Equal or Better – An analysis of how the ATC is equal or better in quality and performance than the requirements of the Contract Documents, as applicable.

Miscellaneous – Any additional information that would assist the Department in the review of this ATC.



Alternative Technical Concept Response Form

Proposer ATC No.: ##

Project Name:

Date Received:

Project Number:

Pin Number:

Design-BUILDER:

Date Responded:

Subject:

Drawing Reference:

Spec Section:

Reviewer Comments

Deviation: By providing XX there (is or is not) a deviation from standards.

Analysis: This solution (is or is not) equal or better than the RFP.

Disposition: Match ITP 3.7.2 – Choose one of the responses A) thru E).

- A. The ATC is acceptable.
- B. The ATC is unacceptable.
- C. The ATC is unacceptable in its present form, but may be acceptable upon the satisfaction, in UDOT's sole discretion, of certain identified conditions that must be met, or clarifications, or modifications that must be made.
- D. The submittal does not qualify as an ATC and may be included in the proposal (that is, the concept complies with the baseline RFP requirements).
- E. The submittal does not qualify as an ATC and may not be included in the proposal.